

STUDY RECOMMENDATIONS

1. Develop new state legislation that revises the acquisition process for rail corridors.



- The revised legislation should:
 - Grant INDOT a right of first refusal on abandoned rail corridors
 - Authorize INDOT to engage in negotiations with railroads for the purchase of active and abandoned rail corridors
 - Give INDOT a means to acquire corridors through eminent domain if the purchase cannot be negotiated.
- INDOT should meet at least annually with all railroads serving the State in order to assess their status and discuss any issues that might need attention. This will allow the staff to annually update the list of rail corridors that might be abandoned during the current year.
- INDOT, in consultation with affected state and local agencies, should annually prepare a master list of rail corridors for preservation.
- INDOT should develop a budget which would permit it or other state or local agencies to acquire these corridors as they become available and would seek appropriations legislation.

2. Eliminate the Approval Function of the Transportation Corridor Planning Board

- INDOT staff, having the knowledge and expertise to facilitate rail corridor reviews and investigations, should be given the direct authority to determine which corridors should be considered for acquisition. The staff would then make recommendations to the INDOT Commissioner for action.

3. Modify the Role of the Transportation Corridor Planning Board

Maintain the Transportation Corridor Planning Board as an advisory body but eliminate the requirement that the Board review and approve proposed corridor acquisitions. The Board could:

- Act as a sounding board for INDOT plans and activities
- Conduct planning reviews, including a review of the list of rail lines proposed to be abandoned each year
- Serve as a resource for INDOT staff
- Assist with other activities as needed



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Indiana Rail Corridor Preservation Study



Project Summary

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The Indiana Department of Transportation

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INDIANA RAIL CORRIDOR PRESERVATION STUDY

Background

Since 1950 approx. 3,260 miles of rail line have been abandoned in Indiana. The loss of transportation corridors is significant because it is almost impossible to reassemble these linear rights-of-way. Transportation corridors are important to the prosperity and vitality of the state, as they provide for freight and passenger rail service, hiking and biking trails (for both commuting and recreation purposes), and utility needs. Thus, it is important that the process to preserve these corridors is expeditious and responsive to the federal process of the Surface Transportation Board (STB) governing rail abandonments.

Purpose of Study

The **key issue** to be addressed is the effectiveness of the Indiana process for rail corridor preservation in meeting state objectives. The study found that the Indiana process is cumbersome and inflexible. The time needed to complete the process takes longer than the current federal process of the STB, which oversees all rail line acquisitions and abandonments. The current state process (as required by statute) has thus precluded INDOT from taking the necessary steps to acquire rail corridors since the federal abandonment process is complete and the corridor lost before the prescribed state process for its preservation can be completed.

Abandonment Process

In general, the abandonment and transfer of all rail lines is subject to the approval of the federal STB. In the case of abandonments, the STB's enabling statute (the Interstate Commerce Commission Termination Act), prohibits a railroad from abandoning a line or discontinuing service without first getting STB authorization. In addition, a "person" (either a railroad or a nonrailroad) can't acquire an "active" rail line (i.e., one that has not been abandoned) without first getting STB acquisition authority.

There are three different STB regulatory processes applicable to railroad abandonments:

1. *The formal statutory provisions of 49 U.S.C. 10903-4*
2. *The individual regulatory exemption established by 49 U.S.C. 10502*
3. *The "class exemption" regulation promulgated at 49 CFR 1152.50.*

Each has its own deadlines and procedures including those applicable to purchase through the abandonment process (the Offer of Financial Assistance or "OFA"), 49 U.S.C. 10904.

The three STB processes applicable to abandonments were compared to the current Indiana corridor acquisition process and time line established by state statute. The comparison illustrates that the current Indiana process cannot be completed in enough time to allow for timely participation in the STB process, resulting in the loss of corridors across the state.

KEY FINDINGS

1. **The process to preserve rail corridors in Indiana is cumbersome and inflexible, which precludes INDOT from taking the necessary steps to acquire rail corridors under the Federal acquisition procedures.**

The practical reality -- particularly for lines to be preserved for rail service -- is that the STB process could be well along or even completed by the time INDOT or some other party meets all the mandatory state requirements and is approved to acquire a line under the current state acquisition process.

Under the most optimal of scenarios, INDOT would likely need six months to consider, approve, and acquire a rail corridor. In the case of lines sought to be abandoned by exemption, the would-be purchaser

would have to file an Offer of Financial Assistance (OFA) in as little as 70 days after the carrier filed with the STB and would be put in a position of having to make a commitment to purchase the line within 140 days after the carrier filed with the STB.



Where the state sought to acquire a right of way through a public use condition or a rail trail designation, the STB deadlines are more lenient but still problematic for Indiana. Although the public use condition expires six months after the abandonment approval and the right of way can be converted to a trail at any time after the abandonment is approved, requests for

trail or public use conditions must be made within 45 days of an abandonment filing. Existing state statute requires the entire process be followed before a decision to acquire a line is made. By the time INDOT was able to reach a decision to even try to acquire a line, the STB deadlines would be expired.

In addition, INDOT cannot force the acquisition of a corridor under either condition. Additionally, should the carrier consummate the abandonment, the opportunity to convert the right of way into a trail is forever lost.

2. **The Transportation Corridor Planning Board appears to play no substantive role in the corridor acquisition process.**

The Indiana process currently requires INDOT staff to conduct hearings and determine if a rail line should be preserved. The Transportation Corridor Planning Board becomes directly involved after INDOT has made a decision as to acquisition. INDOT staff has the knowledge and expertise to make recommendations to the INDOT Commissioner regarding the preservation/acquisition of a rail corridor. The review and public hearing process by the Board for corridor acquisition is duplicative, time consuming and likely unnecessary.

